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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

VICTOR TAGLE,

Plaintiff,

v.

STATE OF NEVADA, *et al.*,

Defendants.

Case No. 2:15-cv-00623-APG-GWF

**ORDER GRANTING DEFENDANT
GROOVER'S MOTION FOR
SUMMARY JUDGMENT**

(ECF No. 201)

Defendant Kyle Groover moves for summary judgment because plaintiff Victor Tagle has not exhausted his administrative remedies before filing this lawsuit. ECF No. 201. Tagle filed three oppositions to that motion, but never addressed the issue of exhaustion. ECF Nos. 203, 206, 207. Because Tagle failed to exhaust his remedies, I grant the motion.

Before bringing a lawsuit under 28 U.S.C. § 1983, an inmate must properly exhaust all of the administrative steps outlined by the prison. *Woodford v. Ngo*, 548 U.S. 81, 90 (2006); 42 U.S.C. § 1997e(a). Exhaustion is not excused by claims of futility. *Booth v. Churner*, 532 U.S. 731, 741 n.6 (2001) (“[W]e will not read futility or other exceptions into statutory exhaustion requirements where Congress has provided otherwise.”).

The Nevada Department of Corrections established a grievance process for inmates who wish to complain about their treatment. Specifically, Administrative Regulation 740 sets forth the procedures inmates are to follow. Tagle did not exhaust those administrative remedies before filing this lawsuit. ECF No. 201-2. Tagle’s Grievance History demonstrates that he is well familiar with the process he must follow, yet he did not do so with regard to the complaints alleged in this lawsuit. *Id.* Thus, he cannot maintain this lawsuit.

Tagle suggests he needs additional time to conduct discovery, in hopes of finding evidence to support his claims. ECF No. 206 at 4. Yet none of the evidence he believes he will

1 uncover (regarding mail tampering, physical abuse, destruction of evidence, and conspiracy)
2 addresses the fact that Tagle failed to exhaust his administrative remedies. Therefore, additional
3 discovery would not change the outcome of the motion for summary judgment.

4 IT IS THEREFORE ORDERED that defendant Kyle Groover's motion for summary
5 judgment (**ECF No. 201**) is **GRANTED**. The clerk of the court is directed to enter judgment in
6 favor of Groover on all of Tagle's claims against him.

7 DATED this 23rd day of October, 2017.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE